THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13027 of 1998

Dated: 18.07.2006

Between
S.Bhaskar Reddy

.....Petitioner

and

1.The Co-operative Tribunal rep., by its
Chairman, Hyderabad and others.

....Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.13027 of 1998

ORDER:

This writ petiton is directed against an order passed in C.T.A.No.385 of 1996 dated 13.2.1998 on the file of the Co-operative Tribunal, Hyderabad, wherein the order passed by the Deputy Registrar of Cooperative Societies-cum-Divisional Cooperative Officer, Tirupathi *vide* proceedings in ROC.No.3296/80-E dated 13.10.1996 under Section 60 of the Cooperative Societies Act (for short ' the Act'), was confirmed.

It is the case of the petitioner that he was President of the Satyavedu Cooperative Super Bazaar Limited, Satyavedu during the period from 1978 to 1981. For the first time on 5.3.1982 surcharge notice under Section 60 of the Act was issued to him on the ground that during the inspection under Section 52 of the Act, certain irregularities have come to light. Though he submitted explanation for the same, no further action was taken and it must be deemed that the action initiated on 5.3.1982 was dropped. However, on 28.08.1986 a surcharge notice under Section 60 of the Act was issued. The petitioner did not submit any explanation in spite of receiving the same on 17.09.1986. Under those circumstances, the Deputy Registrar of Cooperative Societies, Tirupathi passed final orders under Section 60 of the Act on 13.10.1986 holding that the petitioner is responsible for the irregularities and misappropriation and directed him to pay an

amount of Rs.20,950.87ps together with interest at the rate of 24% p.a. from 26.4.1979 till the date of realization. Aggrieved by the same, the petitioner filed an appeal before the Cooperative Tribunal in CTA No.385 of 1996. The Cooperative Tribunal after perusal of the surcharge proceedings and other material available before it came to the conclusion that the impugned surcharge proceedings do not call for its interference and hence dismissed the same. Aggrieved by the same, the present writ petition has been preferred.

Learned counsel for the petitioner states that the notice issued under Section 60 of the Cooperative Societies Act on 5.3.1983, after submitting explanation by him, was dropped. Therefore, issuing of a surcharge notice on 28.8.1986 is illegal.

Absolutely, there is no evidence to show that either the petitioner has submitted any explanation to the purported show cause notice dated 5.3.1983 under Section 60 of the Act or the explanation submitted by him to the same or the proceedings were dropped against the said notice. Even if it is assumed that some show cause notice was issued earlier, but that does not mean that the respondents cannot issue a notice unless the earlier proceedings ended either by dropping the proceedings or passing some orders. Therefore, the authorities are at liberty to issue any number of notices under Section 60 of the Act though the earlier proceedings were not concluded. Therefore, the notice, dated 28.8.1986 issued under Section 60 of the Act cannot be found fault.

Learned counsel for the petitioner raised another question stating that there is an amendment to Section 52 of the Act and after the amendment the respondents have issued the

proceedings hurriedly, concluded the same to avoid limitation etc. In fact, the Tribunal has found no relevance as to amendment to the facts of this case since they are not the proceedings under Section 52 of the Act and it is under Section 60 of the Act and there is no fetter of limitation for the purpose of initiating action under Section 60 of the Act. The Tribunal has rightly found that the amendment has no relevance to the facts of this case.

Learned counsel for the petitioner further states that the proceedings under Section 60 of the Act must be proceeded as if it is a civil suit and an opportunity must be given to the parties as required under law and no opportunity was given to the petitioner. Therefore, the surcharge proceedings as confirmed by the Tribunal requires to be set aside.

I am not in agreement with the submission made by the learned counsel for the petitioner. In fact, the surcharge notice was received by the petitioner on 17.9.1986 , but he did not respond for the same. Though the petitioner objected to the notice dated 25.09.1986, made a representation stating that " I received your notice No.3296 dated 28.8.1986 on 17.9.1986. I visited several times your office to submit my appeal in person but I could not meet you as you are on the camp. So, I am leaving this appeal to you in your office." This is only a letter. The explanation has not been submitted by the petitioner.

Learned counsel for the petitioner argued yet another point that the matter relates to the year 1981 and the petitioner was asked to give an explanation in 1986, which is highly impossible for him after six years. However, he further states that since principles of natural justice are violated, he may be

permitted to give one more opportunity, so that he can give an explanation. There is no violation of principles of natural justice. The petitioner did not avail the opportunity given to him.

In view of the above, I am of the opinion, the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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18.07.2006

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